

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: May 12, 2016

Agenda Item: Natural Resources Defense Council's Trapping Regulation Petition

Division: Wildlife

Action Needed: Final

Time Needed on Agenda for this Presentation: 30 Min

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Background: The Natural Resources Defense Council submitted a rulemaking petition requesting: 1) all traps and snares used to capture or attempt to capture any wildlife must be visually inspected at least every 24 hours; 2) prohibiting neck snare traps within grizzly bear habitat between March 1 and December 1 or if grizzly bear sign is present; and 3) prohibit the use of M-44's to take or attempt to take any animal within occupied grizzly bear habitat between March 1 and December 1 or if grizzly bear sign is present.

FWP is proposing furbearer regulations in a separate agenda item.

Public Involvement Process & Results: Public comment has not been sought regarding the specific requests in the petition. However, the public will have opportunity to comment on the proposed trapping regulations during the regular trapping regulation review process.

Alternatives and Analysis: An alternative to initiating rulemaking as proposed in the Petitioner, is for the Commission to deny the Petition altogether. Amending ARM rules is not the proper venue for trapping regulation changes. Trapping regulations are seasonal rules adopted annually and are required to be published and provided to the public and therefore are not a rule as defined in the Montana Administrative Procedures Act. (§2-4-102(11)(b)(iv), MCA). Separating any regulatory language into administrative rule prevents the public and Commission from the yearly process of developing and evaluating appropriate regulations. The petition is thoroughly addressed in a document in the Commission packet. Briefly, specific to the petition's points:

1. A 24-hour trap check is inappropriate for Montana's big landscape and would severely limit lawful opportunity for trappers.
2. Prohibition of neck snares as proposed is not needed. It would primarily affect public agencies addressing livestock protection and the F&W Commission has no authority to regulate these activities. Moreover, there is no record of snared grizzlies in Montana despite intensive monitoring and research for over 40 years.
3. M-44s are already prohibited where threatened or endangered species might be adversely affected.

Another alternative available to the Commission is to deny the Petition and suggest the proposed regulations during the furbearer regulation agenda item. The regular trapping regulation review process considers changes every May/July and allows the public, including NRDC, multiple opportunities to be involved in the process.

Agency Recommendation & Rationale: The department recommends denying the petition because the topics may be covered under the regular furbearer season setting process on this month's agenda.

Proposed Motion: I move the Commission deny NRDC's petition regarding trapping regulations.